IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1680 OF 2006

M/s.J.D. and Co. Pvt.Ltd. ...Appellant

Vs.

Special Land Acquisition Officer
No.5,Satara at Wai,Dist.Satara ...Respondent

Mr.Harinder Toor with Mr.A.L.N.Khatri i/b M/s.A.L.N. Khatri & Co. for the Appellant
Ms G.P.Mulekar, A.G.P. for State.

CORAM: A.S.OKA, J.
DATED: AUGUST 4, 2006.

P.C.:

1. Heard learned Counsel for the Appellant. The Appellant is the original Claimant in a Reference under Section 18 of the Land Acquisition Act, 1894. On the basis of an Application made by the Applicant, a Reference was made to the Reference Court. The Reference has been dismissed by the Reference Court by holding that the same is barred by limitation.

2. The learned Counsel for the Appellant submitted that once the Reference was validly made, it was the duty of the Reference Court to decide the same on merits and the same could not have been dismissed on the ground that it was barred by limitation. He submitted that the effect of sub section 3 of Section 18 of the said Act as amended by Maharashtra Act is not considered by the Reference Court.

3. I have considered the submissions. Admittedly, notice under section 12(2) of the said Act of 1894 was served to the Appellant on 28th October 1987 and the Reference Application was filed on 22nd September 1988. The period of limitation for filing an Application for Reference is six weeks from the date of service of notice under section 12(2) of the said Act. Thus, the reference was barred by limitation. It is well settled that the Collector or the Land Acquisition Officer is not a court and have no power to condone the delay in filing the Reference Application.

4. In view of the decision of this Court in First Appeal No.2581 of 2005 dated 22nd March 2006 (Shantaram Ganesh Shenoy Vs. Special Land Acquisition Officer, Ratnagiri), the Reference Court gets jurisdiction provided the Reference is validly made and therefore, the Reference Court was under an obligation to ascertain whether the Reference was validly made.

5. As the Reference was obviously barred by limitation, the Reference Court was right in dismissing the same. Hence, Appeal is dismissed with no order as to costs.

Judge.